

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH DIVISION**

<p>In re:</p> <p>Keith D. DeVito,</p> <p style="text-align: center;">Debtors.</p> <p>U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR IN INTEREST TO WILMINGTON TRUST COMPANY, AS TRUSTEE, SUCCESSOR IN INTEREST TO BANK OF AMERICA NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR BY MERGER TO LASALLE BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR LEHMAN XS TRUST MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-6,</p> <p style="text-align: center;">Objecting Party</p> <p style="text-align: center;">v.</p> <p>Keith D. DeVito, Debtor and Ronda J. Winnecour, Chapter 13 Trustee,</p> <p style="text-align: center;">Respondents.</p>	<p>Bankruptcy Case #: 18-20002-CMB</p> <p>Chapter 13</p> <p>Related to Doc. No. 19</p>
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OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR IN INTEREST TO WILMINGTON TRUST COMPANY, AS TRUSTEE, SUCCESSOR IN INTEREST TO BANK OF AMERICA NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR BY MERGER TO LASALLE BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR LEHMAN XS TRUST MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-6 ("Secured Creditor"), by

and through its undersigned counsel, objects to confirmation of Debtor's Chapter 13 Plan (DE #19), and states as follows:

1. Debtor, Keith D. DeVito ("Debtor"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on January 1, 2018.
2. Secured Creditor holds a security interest in the Debtor's real property located at 434 OAKCREST DR, NORTH HUNTINGDON, PA 15642, by virtue of a Mortgage recorded on January 2, 2007 in the Public Records of Westmoreland County, PA. Said Mortgage secures a Note in the amount of \$254,800.00.
3. The Debtor filed a Chapter 13 Plan on January 28, 2018.
4. The Plan includes payments toward the Note and Mortgage with Secured Creditor, however the figures used by the Debtor are inaccurate and do not conform to Secured Creditor's timely-filed Proof of Claim. The correct pre-petition arrearage due Secured Creditor is \$196,999.97, whereas the Plan does not treat the arrears. Therefore, the Plan is not in compliance with the requirements of 11 U.S.C. §§ 1322(b)(3) and 1325(a)(5) and cannot be confirmed. Secured Creditor objects to any plan which proposes to pay it anything less than \$196,999.97 as the pre-petition arrearage over the life of the plan.
5. Debtor is obligated to fund a Plan which is feasible to cure the arrears due to the objecting creditor within a reasonable time pursuant to 11 U.S.C § 1322(b)(5). Therefore, in the event that any loss mitigation efforts are not successful, the plan fails to satisfy the confirmation requirements of 11 U.S.C § 1325(a)(1).
6. Debtor's Plan evidences an intent to seek mortgage modification with Secured Creditor. Debtor's Plan proposes monthly adequate protection payments to Secured Creditor in the amount of \$1,000.00. Secured Creditor believes this amount is insufficient to adequately protect its property interest, but would find an adequate protection payment of \$2,412.75 sufficient. Therefore, Secured Creditor objects to the proposed monthly adequate protection payments and any other payment below \$2,412.75, during the pendency of loss mitigation.

7. Based on Debtor's Schedules, the Plan does not appear feasible due to the representation that sufficient disposable income is not available to support the proposed Plan payments.

Thus, the plan violates the provisions of 11 U.S.C. § 1325(a)(6) and cannot be confirmed.

WHEREFORE, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtor's Plan, and for such other and further relief as the Court may deem just and proper.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 5, 2018, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, and a true and correct copy has been served via CM/ECF or United States Mail to the following parties:

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